

Report Highlights

Department of Social Services, Bureau of Licensing

November 2007

Louisiana Legislative Auditor

Steve J. Theriot,
CPA

Legislative
Auditor



The Department of Social Services' (DSS) licensing authority is established by Louisiana Revised Statute 46:1401 *et seq.* These statutes, referred to as the *Child Care Facility and Child-Placing Agency Licensing Act*, mandate the licensing of all child care facilities and child placing agencies. This includes facilities owned and operated by any governmental, profit, nonprofit, private, or church agency.

According to state law, DSS is required to annually conduct unannounced inspections of all child care facilities and child placing agencies. During the annual survey process, licensing specialists are to inspect facilities for compliance with minimum standards and cite deficiencies for instances of noncompliance.

Our audit focuses on DSS' licensing of child day care centers and child residential facilities from January 1, 2006, through May 31, 2007. As of May 2007, DSS licenses 1,771 child day care centers and 58 child residential facilities. Definitions of these entities are as follows:

Child Day Care Center: *Any place that provides care, supervision, and guidance of seven or more children on a regular basis for at least twelve and one-half hours in a continuous seven-day-week.*

Child Residential Facility: *Any place that provides 24 hour residential care for four or more children under the age of 18 years whose parents or guardians are not residents of the same facility, with or without transfer of custody.*

Audit Results

DSS needs stronger licensing practices to ensure that it is protecting the health, safety, and well-being of children in child day care centers and child residential facilities. The following findings describe the weaknesses we found in the DSS licensing program:

- DSS has not developed formal policies and procedures for its licensing program.
- The licenses DSS annually renews for child day care centers and child residential facilities do not mean providers meet minimum licensing standards.
- DSS licensed new child day care centers without documentation of criminal record check clearances.
- DSS may not be investigating complaints in a timely manner.
- DSS lacks strategies for enforcing the minimum standards.
- DSS should develop formal procedures for committee referrals and collect the data needed to determine if the committee structure is an effective enforcement strategy.
- Licensing information is not easily accessible to the public or providers.
- Louisiana law provides different regulatory requirements for children in child day care centers and child residential facilities.

Is DSS protecting the Health, Safety, and Well-Being of Children in Child Day Care Centers and Child Residential Facilities Through Its Licensing Program?

DSS Has Not Developed Formal Policies and Procedures for Its Licensing Program.

- ➡ While DSS has been licensing child day care centers and child residential facilities since 1990, it has yet to develop comprehensive policies and procedures to guide its licensing program. DSS developed its first formal licensing policy in 2007. As a result, licensing staff have little formal criteria to use when conducting licensing visits, managing complaints, or enforcing the minimum standards.

RECOMMENDATIONS

- ✓ DSS should develop, implement, and regularly update policies and procedures for the licensing of child day care centers and child residential facilities.
- ✓ DSS should ensure that its policies and procedures address all aspects of the licensing program such as the annual survey process, managing complaints, and enforcement.

The Licenses DSS Annually Renews for Child Day Care Centers and Child Residential Facilities Do Not Mean Providers Meet Minimum Licensing Standards.

- ➡ DSS issues each child care facility a generic license on its anniversary date, regardless of the facility's level of compliance with the minimum licensing standards. With the generic license, DSS sends the provider a letter that states, in part,:

“... the issuing of this license does not in any way note your compliance or non-compliance with the regulations.”

- ➡ Approximately 87% (26 out of 30) of child day care centers and 90% (27 out of 30) of child residential facilities that we sampled had deficiencies when DSS renewed their most recent licenses. Therefore, DSS is not ensuring that providers meet minimum standards before they are allowed to provide child care services.

RECOMMENDATIONS

- ✓ DSS should only issue licenses to those facilities that meet minimum standards.
- ✓ DSS should define what it means for a facility to meet minimum standards and distribute these criteria to providers, licensing personnel, and the public.

DSS Licensed New Child Day Care Centers Without Documentation of Criminal Record Check Clearances.

- ➡ For approximately 37% (11 out of 30) of the child day care centers we sampled, DSS initially licensed each center without documentation of a criminal record check clearance for at least one employee.
- ➡ While in all cases the providers had requested the criminal record checks, the results were not documented in the personnel files.

RECOMMENDATION

- ✓ DSS should ensure that child day care centers receive documentation of criminal record check clearances on all staff prior to issuing them their initial licenses. This would ensure that child day care centers do not employ, even temporarily, individuals with criminal convictions of a felony offense, an offense of a violent or sexual nature, or an offense involving a juvenile victim.



DSS May Not Be Investigating Complaints in a Timely Manner.

- ➡ During calendar year 2006, DSS took over 30 calendar days to conduct onsite investigations of approximately 49% of child day care center complaints and 88% of child residential facility complaints.
- ➡ This surpasses the 30-day time frame in which licensing programs in two best practices states (North Carolina and Oklahoma) conduct investigations for their lowest risk allegations.

RECOMMENDATIONS

- ✓ DSS should consider prioritizing complaints based on risk levels with each risk level specifying a time frame for investigation. DSS could contact the best practices states and associations cited in this report for assistance.
- ✓ DSS should formally document its complaint management process in its policies and procedures.

DSS Lacks Strategies for Enforcing the Minimum Standards.

- ➡ DSS' only enforcement strategy is to recommend a facility to an external advisory committee for denial, revocation, or nonrenewal of its license. DSS has not developed any other formal enforcement procedures for dealing with facilities that do not comply with the minimum licensing standards.
- ➡ According to child care experts, effective enforcement requires the consistent application of sound enforcement policies, including a wide range of intermediate sanctions. These sanctions include both positive enforcement strategies (e.g., frequent monitoring, technical assistance and consultation, and providing incentives for compliance) and negative enforcement strategies (e.g., warnings, conditional licenses, and civil fines).

RECOMMENDATION

- ✓ DSS should consult with child care industry experts to consider developing an array of positive and negative enforcement strategies to help ensure provider compliance with minimum licensing standards.

MATTER FOR LEGISLATIVE CONSIDERATION

- ✓ The legislature may wish to consider expanding DSS' current enforcement authority (e.g., issuing civil fines) to help ensure provider compliance with minimum licensing standards.

DSS Should Develop Formal Procedures for Committee Referrals and Collect the Data Needed to Determine if the Committee Structure is an Effective Enforcement Strategy

- ➡ DSS has not developed criteria for determining when to refer child care providers to the appropriate child care committee. In addition, DSS lacks a formal record keeping system of committee actions. As a result, we could not determine if the committee structure is an effective enforcement strategy for holding providers accountable.

RECOMMENDATIONS

- ✓ DSS should develop formal criteria for referring providers to the appropriate child care committee for possible denial, revocation or nonrenewal of licensure. This would help ensure that DSS refers noncompliant providers to the committees in an effective and consistent manner.
- ✓ DSS should implement a formal record keeping and tracking system regarding the child care committee process. This would allow DSS to collect the data necessary to evaluate the effectiveness of the committee process as an enforcement strategy and make necessary changes.



Licensing Information Is Not Easily Accessible to the Public or Providers.

- DSS has been unable to post deficiency statements for child day care centers and child residential facilities on its website since March 2005. Therefore, it is difficult for the public to obtain the information it needs to make informed child care placement decisions.
- DSS does not provide formal training or assistance regarding licensing to new child day care or child residential facility providers. In addition, some providers said that licensing information on the DSS website is scattered and difficult to find.

RECOMMENDATIONS

- ✓ DSS should work to resolve issues with its website and resume the posting of child day care center and child residential facility inspections and deficiencies.
- ✓ DSS should consider posting complaint information for all providers in addition to inspection and deficiency information. This would ensure the public can easily obtain the information it needs to determine provider performance and make informed child care placement decisions.
- ✓ DSS should meet with providers to determine the types of information they need to effectively operate their facilities. DSS should then update its website to present this information in a centralized and organized manner.
- ✓ DSS should consider implementing a formal training and/or orientation program for new providers.

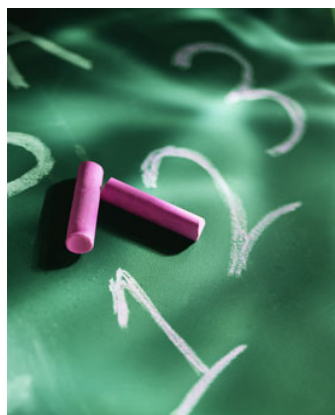
- ✓ DSS should consider developing a handbook for all providers that includes guidance on the licensing process and the interpretation and application of the minimum standards.

Louisiana Law Provides Different Regulatory Requirements for Children in Child Day Care Centers and in Child Residential Facilities.

- Louisiana law allows child day care centers and child residential facility providers the choice of being licensed under one of two sets of standards: Class A or Class B. Because of variations between the two sets of standards, Louisiana law does not ensure the children in these facilities receive the same level of regulatory protection.

MATTER FOR LEGISLATIVE CONSIDERATION

- ✓ The legislature may wish to consider amending state law to consolidate the Class A and Class B minimum standards for child day care centers and child residential facilities into one set of standards for each.



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Louisiana Legislative Auditor

1600 N. 3rd Street
P.O. Box 94397
Baton Rouge, LA
70804-9397

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Questions?
Call
Michael Battle,
Performance
Audit Manager,
at
225-339-3800.

DEPARTMENT OF SOCIAL SERVICES
BUREAU OF LICENSING



PERFORMANCE AUDIT
ISSUED NOVEMBER 28, 2007

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

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MIKE BATTLE, PERFORMANCE AUDIT MANAGER,
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STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

November 28, 2007

The Honorable Donald E. Hines,
President of the Senate
The Honorable Joe R. Salter,
Speaker of the House of Representatives

Dear Senator Hines and Representative Salter:

This report provides the results of our performance audit of the Department of Social Services' licensing of child day care centers and child residential facilities. This audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

This report contains our findings, conclusions, and recommendations. Appendix B contains the department's response. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the department's staff for their assistance during this audit.

Sincerely,

Steve J. Theriot, CPA
Legislative Auditor

SJT/dl

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EXECUTIVE SUMMARY

Performance Audit Findings

- **DSS Has Not Developed Formal Policies and Procedures for Its Licensing Program.** While DSS has been licensing child day care centers and child residential facilities since 1990, it developed its first formal licensing policy in 2007. Without clear and comprehensive guidance, DSS cannot ensure standardization and consistency within the licensing program. *(See pages 9-10.)*
- **The Licenses DSS Annually Renews for Child Day Care Centers and Child Residential Facilities Do Not Mean Providers Meet the Minimum Licensing Standards.** DSS issues generic licenses to facilities regardless of a facility's compliance with the minimum licensing standards. Approximately 87% (26 of 30) of child day care centers and 90% (27 of 30) of child residential facilities that we sampled had deficiencies when DSS renewed their most recent license. Therefore, DSS is not ensuring that providers meet minimum standards before they are allowed to provide child care services. *(See pages 10-11.)*
- **DSS Licensed New Child Day Care Centers Without Documentation of Criminal Record Check Clearances.** For approximately 37% (11 out of 30) of the child day care centers we sampled, DSS initially licensed each center without documentation of a criminal record check clearance for at least one employee. While in all cases the providers had requested the criminal record checks, the results were not documented in the personnel files, as required by the minimum standards. As a result, child day care providers may be employing, at least temporarily, individuals with a criminal conviction of a felony, an offense of a violent or sexual nature, or an offense involving a juvenile. *(See page 12.)*
- **DSS May Not Be Investigating Complaints in a Timely Manner.** During calendar year 2006, DSS took over 30 calendar days to conduct onsite investigations of approximately 49% of child day care center complaints and 88% of child residential facility complaints. This surpasses the 30-day time frame in which licensing programs in two best practices states (Oklahoma and North Carolina) conduct investigations for their lowest risk allegations. *(See pages 13-14.)*
- **DSS Lacks Strategies for Enforcing the Minimum Standards.** DSS' only enforcement strategy is to recommend a facility to an external child care committee for denial, revocation, or nonrenewal of its license. DSS has not developed any other formal enforcement procedures for dealing with facilities that do not comply with minimum licensing standards. According to child care experts, effective enforcement requires the consistent application of sound enforcement policies, including a wide range of intermediate sanctions, which DSS lacks. *(See pages 14-15.)*

- **DSS Should Develop Formal Procedures for Committee Referrals and Collect the Data Needed to Determine if the Committee Structure Is an Effective Enforcement Strategy.** DSS has not developed criteria for determining when to refer child care providers to the appropriate child care committee. In addition, DSS lacks a formal record keeping system of committee actions. As a result, we could not determine if the committee structure is an effective enforcement strategy for holding providers accountable. *(See pages 15-17.)*
- **Licensing Information Is Not Easily Accessible to the Public or Providers.** DSS has been unable to post deficiency statements for child day care and child residential facility providers on its website since March 2005. Therefore, it is difficult for the public to obtain the information it needs to make informed child care placement decisions. In addition, some providers said that licensing information on the DSS website is scattered and difficult to find. As a result, providers may not be receiving the information they need to attain and maintain compliance with the minimum standards. *(See pages 17-19.)*
- **Louisiana Law Provides Different Regulatory Requirements for Children in Child Day Care Centers and in Child Residential Facilities.** Louisiana law allows child day care center and child residential facility providers the choice of being licensed under one of two sets of standards: Class A or Class B. Because of the variations between the two sets of standards, Louisiana law does not ensure that children in these facilities receive the same level of regulatory protection. *(See pages 19-20.)*

Audit Initiation and Objectives

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. Louisiana Revised Statute (R.S.) 24:522 requires, in part, that the legislative auditor establish a schedule of performance audits to ensure that at least one performance audit is completed and published for each executive department agency within a seven-year period beginning with the 1997-98 fiscal year. In accordance with this requirement, the legislative auditor developed a plan scheduling a performance audit of the Department of Social Services (DSS) for the 2006-2007 fiscal year. The scheduling of this audit was approved by the Legislative Audit Advisory Council in July 2003.

We limited our audit work to the licensing of child day care centers and child residential facilities by the Bureau of Licensing within the Office of the Secretary. Appendix A contains our scope and methodology. Our objective was to determine the following:

Is DSS protecting the health, safety, and well-being of children in child day care centers and child residential facilities through its licensing program?

Overview of the Licensing Program

Licensing Authority. DSS' licensing authority is established by R.S. 46:1401 *et seq.* These statutes, referred to as the *Child Care Facility and Child-Placing Agency Licensing Act*, mandate the licensing of all child care facilities and child placing agencies. The law includes facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

Programs Licensed by DSS. DSS licenses approximately 2,068 facilities within nine programs. During our audit, we focused on the licensing of child day care centers and child residential facilities. Exhibit 1 lists all the programs DSS licenses and the number of facilities licensed as of May 2007.

Exhibit 1
Programs and Number of Facilities Licensed by DSS
As of May 2007

Program Type	Number of Licensed Facilities
Child Day Care Center	1,771
Adult Residential Facility	118
Child Residential Facility	58
Foster Care Agency	56
Adoption Agency	32
Emergency Shelter	14
Infant Intervention Service Provider	11
Transitional Youth Residence	6
Maternity Home	2
Total	2,068
Source: Prepared by legislative auditor's staff using information provided by DSS.	

DSS has been licensing child day care centers and child residential facilities since 1990. Definitions of these entities are as follows:

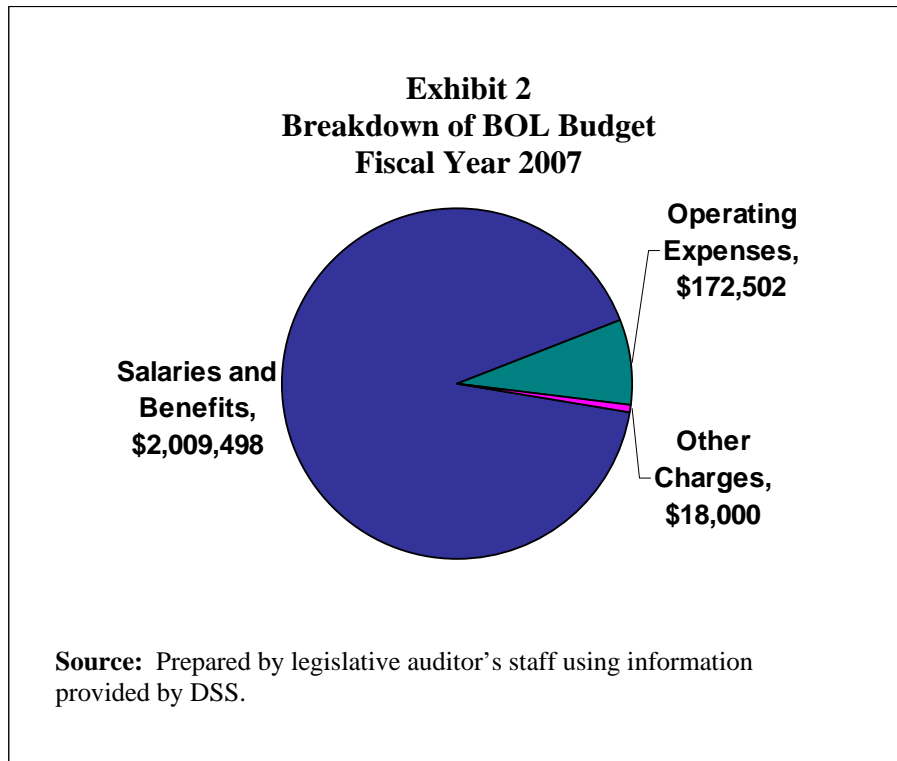
Child Day Care Center:	Any place that provides care, supervision, and guidance of seven or more children on a regular basis for at least twelve and one-half hours in a continuous seven-day-week.
Child Residential Facility:	Any place that provides 24 hour residential care for four or more children under the age of 18 years whose parents or guardians are not residents of the same facility, with or without transfer of custody.

Minimum Standards. According to R.S. 46:1417, DSS is required to annually conduct unannounced inspections of all child care facilities and child placing agencies. During the annual survey process, licensing specialists are to inspect facilities for compliance with minimum standards and cite deficiencies for instances of noncompliance.

Child day care centers and child residential facilities can choose to be licensed under Class A or Class B minimum standards. The Class A and Class B standards provide varying levels of regulatory protection.¹ In addition, Class A facilities are eligible for federal funding whereas Class B facilities are not. DSS develops the minimum standards for the Class A facilities and submits them to the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child-Placing Agencies for official review and approval. The Louisiana Committee on Private Child Care develops the minimum standards for licensure for Class B facilities. These child care committees also work with DSS to enforce the minimum standards. According to state law, DSS must obtain approval from the appropriate child care committee before it can deny, revoke, or refuse to renew a facility's license.

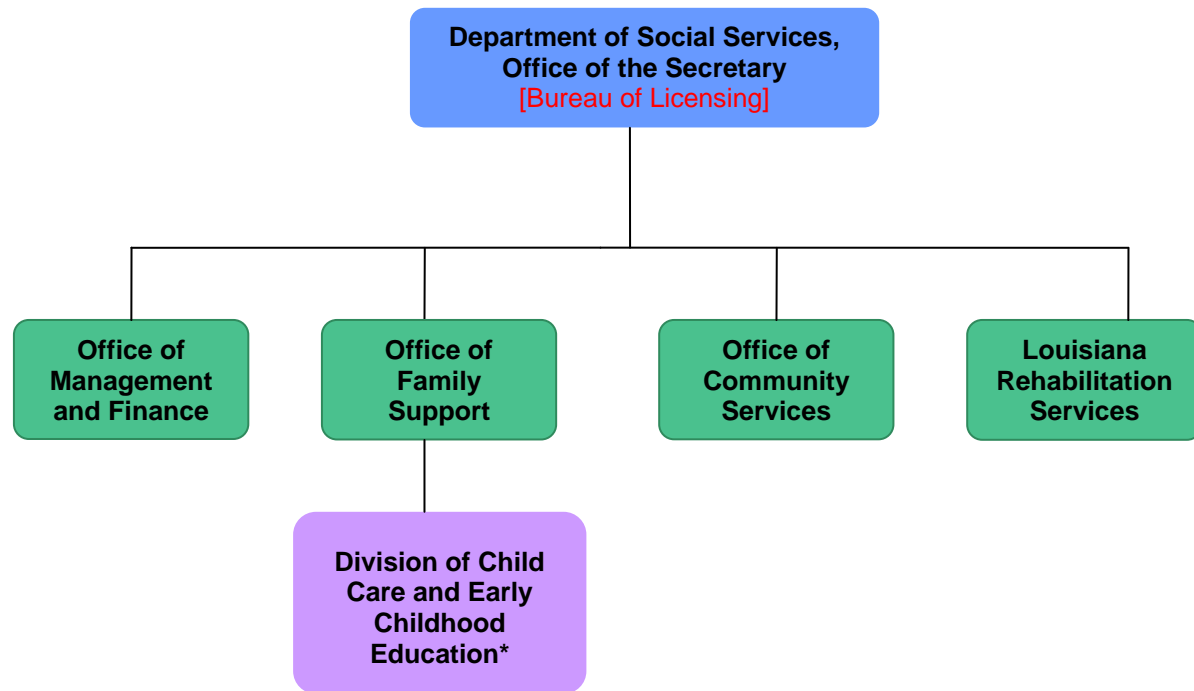
Organization, Budget and Staffing. During fiscal year 2007, the DSS licensing program was located in the Bureau of Licensing (BOL) within the Office of the Secretary (OS). The BOL had an annual operating budget of approximately \$2.2 million. Staffing within the BOL consisted of 40 classified positions, including one director (vacant since April 23, 2006), one assistant director, four program managers, 24 licensing specialists, and 10 support staff. Exhibit 2 shows a breakdown of the BOL budget during fiscal year 2007.

¹ We did not address the quality of the minimum standards during this audit.



Reorganization. On July 1, 2007, the licensing function for child day care centers and infant intervention service providers, which DSS estimates to be 80% of its licensing workload, moved from the BOL/OS to the Division of Child Care and Early Childhood Education within the Office of Family Support (OFS). This reorganization resulted in a shift of 32 of the 40 (80%) classified positions and approximately \$1.6 million of the \$2.2 million (73.6%) budget from BOL/OS to OFS. The remaining seven programs including child residential facilities remain within the BOL/OS. See Exhibit 3 for the organizational structure of DSS as it relates to the licensing of child care facilities and child placing agencies.

Exhibit 3
Organizational Structure of DSS
Fiscal Year 2007



***Note:** The licensing of child day care centers and infant intervention service providers moved to the Division of Child Care and Early Childhood Education, under the Office of Family Support, on July 1, 2007.

Source: Prepared by legislative auditor's staff using information provided by DSS.

Is DSS Protecting the Health, Safety, and Well-Being of Children in Child Day Care Centers and Child Residential Facilities Through Its Licensing Program?

DSS needs stronger licensing practices to ensure that it is protecting the health, safety, and well-being of children in child day care centers and child residential facilities. Our audit findings describe the weaknesses we found in the DSS licensing program and include recommendations that are intended to assist the department in addressing and correcting these weaknesses.

DSS Has Not Developed Formal Policies and Procedures for Its Licensing Program.

While DSS has been licensing child day care centers and child residential facilities since 1990, it has yet to develop comprehensive policies and procedures to guide its licensing program. DSS developed its first formal licensing policy in 2007.²

A recent study by the National Association for Regulatory Administration (NARA)³ stated that strong and effective licensing programs have clear, comprehensive policies and procedures to guide the licensing process. In addition, all three of the states we interviewed (North Carolina, Oklahoma, and Tennessee) had formal, comprehensive policies and procedures governing the different phases (e.g., licensing, complaints, and enforcement) of the licensing process. These states are well-known in the child care industry for having strong licensing programs.

According to a DSS official, department personnel have not had the time to develop formal policies and procedures. As a result, licensing staff have little formal criteria to use when conducting licensing visits, managing complaints, or enforcing minimum standards. For example, DSS has no criteria by which to define the level of compliance with the minimum standards a facility must meet for licensure. In addition, DSS does not have criteria indicating the time frame by which to conduct complaint investigations or when to refer facilities to the external child care committees for license revocation. Without clear and comprehensive guidance, DSS cannot ensure standardization and consistency within its licensing program.

Recommendation 1: DSS should develop, implement, and regularly update policies and procedures for the licensing of child day care centers and child residential facilities.

Summary of Management's Response: DSS agrees with this recommendation and concurs with the benefits and importance of formalized and updated policies and procedures. However, the characterization of staff having "little formal criteria" to guide their work is

² This policy, which became effective on June 1, 2007, pertains to the criminal record check requirements for child residential facilities.

³ NARA is an organization that represents human care licensing, including child care and child welfare. The goal of NARA is to promote excellence in human care and service regulation through leadership, education, collaboration, and service.

misleading in light of the fact that more than 200 codified regulations direct the survey process to protect children in child care and residential facilities.

Legislative Auditor's Additional Comments: The codified regulations are the minimum standards the providers, not DSS staff, are to follow. DSS has not developed policies and procedures to provide its staff with clear and comprehensive guidance for the licensing of child day care centers and child residential facilities.

Recommendation 2: DSS should ensure that its policies and procedures address all aspects of the licensing program such as the annual survey process, managing complaints, and enforcement.

Summary of Management's Response: DSS agrees with this recommendation.

The Licenses DSS Annually Renews for Child Day Care Centers and Child Residential Facilities Do Not Mean Providers Meet the Minimum Licensing Standards.

DSS issues each child care facility a generic or extended⁴ license on its anniversary date, regardless of the facility's level of compliance with the minimum licensing standards. The only criterion is that the provider pays a re-licensure fee. With the generic license, DSS sends the provider a letter that states, in part,:

"... the issuing of this license does not in any way note your compliance or non-compliance with the regulations." (See Appendix C for the entire letter.)

Approximately 87% (26 out of 30) of child day care centers and 90% (27 out of 30) of child residential facilities that we sampled had deficiencies when DSS renewed their most recent licenses. Exhibit 4 summarizes the number of deficiencies DSS cited in our samples (see Appendixes D and E for a complete breakdown of the types of deficiencies DSS cited for the child day care centers and child residential facilities, respectively).

Exhibit 4
Total, Average, and Range of Deficiencies DSS Cited

Deficiencies*	Child Day Care Centers (26)	Child Residential Facilities (27)
Total Number	183	366
Average Number Per Facility	7	13
Range	1-40	1-64
*Note: See Appendixes D and E for further deficiency details.		
Source: Prepared by legislative auditor's staff using information obtained from DSS file reviews.		

⁴ DSS officials said they issue a facility an extended license if the facility has not received inspection or approval from the Office of Public Health and/or the Office of the State Fire Marshal. The extended license will only be given up to the date of the temporary approval.

According to a DSS official and the DSS website, the BOL began issuing generic licenses to facilities in November 2005, as a result of hurricane Katrina. The purpose of this change was to enable the BOL to work more efficiently and lower operational costs by only issuing a facility one license a year. Before November 2005, DSS issued a facility a full or provisional license depending on its compliance with the minimum standards. DSS issued a full license, valid for one year, if the facility met minimum standards. DSS issued a provisional license, valid for six months, if the facility was not in compliance with the minimum standards.

By not requiring child day care centers and child residential facilities to meet minimum standards before renewing their licenses, the generic licenses DSS issues are essentially receipts indicating facilities have paid their licensing fees. Therefore, DSS is not ensuring that providers meet minimum standards before they are allowed to provide child care services.

In addition, since the generic license looks the same as the full license, there could be an assumption that licensed facilities meet minimum standards, when in fact they may not. As a result, parents who entrust the care of their children to these facilities may not fully understand the criteria under which DSS licenses them.

According to officials in North Carolina, Tennessee, and Oklahoma, issuance of a license in their states means that a facility is meeting minimum licensing standards. According to an official with NARA and the National Child Care Information Center (NCCIC),⁵ a license should always mean that a provider is meeting minimum standards. A license should not be considered an invoice or receipt for the payment of licensing fees. Furthermore, because the minimum standards are the *minimum* requirements facilities are supposed to meet, a facility should not receive a license until it has resolved all of its deficiencies.

Recommendation 3: DSS should only issue licenses to those facilities that meet minimum standards.

Summary of Management's Response: DSS partially agrees with this recommendation, most importantly believing that core standards should be met to receive a license. Uniquely, DSS does not have the authority to deny issuance of licenses and will need to work with the external child care committees on this matter.

Recommendation 4: DSS should define what it means for a facility to meet minimum standards and distribute these criteria to providers, licensing personnel, and the public.

Summary of Management's Response: DSS agrees with this recommendation that clear definitions of core standards should be made available to providers, licensing personnel, and the public. In developing new regulations and policy, DSS will clearly define the core standards of licensing.

⁵ NCCIC is a national clearing house and technical assistance center that links parents, providers, policy-makers, researchers, and the public to early care and education information.

DSS Licensed New Child Day Care Centers Without Documentation of Criminal Record Check Clearances.

According to the minimum standards, Class A child day care centers must meet all minimum licensing standards during the initial licensing inspection. Class B centers must achieve “substantial compliance,” yet this term is not defined. For approximately 37% (11 out of 30) of child day care centers we sampled, DSS initially licensed each center despite citing a deficiency. In all cases, DSS cited the center for failing to provide documentation of a criminal record check clearance for at least one employee. While the providers had requested the criminal record checks, they had not received and documented the results in the personnel files.

Class A minimum standard 5311-A.5 requires a center’s personnel records to include documentation of a satisfactory criminal record check for all paid and unpaid employees. This standard also prohibits the employment of staff with a criminal conviction of a felony, a plea of guilty or no contest to a felony, or any offense of a violent or sexual nature, or any offense involving a juvenile victim.

Class B minimum standard 5365-C.4 requires the child day care center provider to request a criminal record check prior to the employment of any staff person and requires documentation of the criminal record check to be in the personnel files. This standard also prohibits the employment of a felon unless approved in writing by a district judge of the parish and the local district attorney.

According to a DSS official, Louisiana State Police will notify both DSS and the provider if an offense that precludes an employee from working in a child day care center comes up on the criminal record check. DSS will then follow up with the provider to ensure the individual is no longer employed. However, by not ensuring that criminal record check clearances are received before hiring an employee, child day care providers may be employing, at least temporarily, individuals with criminal convictions of a felony offense, an offense of a violent or sexual nature, or an offense involving a juvenile victim.

Recommendation 5: DSS should ensure that child day care centers receive documentation of criminal record check clearances on all staff prior to issuing them their initial licenses. This would help ensure that child day care centers do not employ, even temporarily, individuals with criminal convictions of a felony offense, an offense of a violent or sexual nature, or an offense involving a juvenile victim.

Summary of Management’s Response: DSS agrees with this recommendation (see Appendix B for points of clarification).

DSS May Not Be Investigating Complaints in a Timely Manner.

According to state law, it is the duty of DSS to investigate complaints against child care facilities. However, DSS has not implemented formalized policies and procedures to guide the complaint process. Also, DSS does not prioritize complaints or define specific time frames in which licensing specialists must investigate them. As a result, the department cannot ensure that it is investigating complaints in a timely manner.

North Carolina, Tennessee, and Oklahoma use specific, documented policies and procedures or rules to manage their complaint processes. They also prioritize complaints according to an established risk level, with each risk level specifying a specific investigation time frame. The higher the risk, the sooner the complaint is initiated. In both North Carolina and Oklahoma, licensing policy requires staff to initiate complaint investigations for low risk allegations (e.g., complaints that do not indicate imminent danger and no injuries are alleged) within 30 days.

During calendar year 2006, DSS received 385 complaints against 290 child day care centers and 12 complaints against nine child residential facilities (see Appendixes F and G for a complete breakdown of the types of complaints DSS cited for child day care centers and child residential facilities, respectively). Of the complaints for which the department conducted an onsite complaint investigation, DSS took over 30 calendar days⁶ for 171 (48.7%) of the child day care center complaints and seven (87.5%) of the child residential facility complaints. When compared to best practices, the time frame in which DSS conducted investigations for these complaints surpasses the time frame in which North Carolina and Oklahoma require investigations for their lowest risk allegations.

Exhibit 5 summarizes the number of complaints for which DSS conducted an onsite investigation and the time frames in which DSS conducted these investigations for calendar year 2006.

Exhibit 5
Number of Complaints and Investigation Time Frames
Calendar Year 2006

	Child Day Care Centers (290)	Child Residential Facilities (9)
Complaints		
Total Number of Complaints	385	12
Number of Complaints That Received an Onsite Investigation	351	8
Complaint Investigation Time Frames		
Within 30 Calendar Days	180 (51.3%)	1 (12.5%)
Greater Than 30 Calendar Days	171 (48.7%)	7 (87.5%)
Source: Prepared by legislative auditor's staff using information obtained from DSS.		

⁶ This time frame includes the date from which DSS received the complaint until it conducted the onsite investigation.

Recommendation 6: DSS should consider prioritizing complaints based on risk levels with each risk level specifying a time frame for investigation. DSS could contact the best practices states and associations cited in this report for assistance.

Summary of Management's Response: DSS partially agrees with this recommendation and will contact best practices states for information on establishing risk levels to further strengthen our current practice which does prioritize complaints. If a complaint involving imminent harm or risk is received, licensing staff respond to this complaint immediately. Within DSS, the Office of Community Services (OCS) investigates complaints alleging abuse or neglect in child care facilities, and a documented prioritization process is in place for the OCS process. We agree DSS needs the policy and data to validate this practice, and management commits to this effort.

Recommendation 7: DSS should formally document its complaint management process in its policies and procedures.

Summary of Management's Response: DSS agrees with this recommendation.

DSS Lacks Strategies for Enforcing the Minimum Standards.

While responsible for licensing child day care centers and child residential facilities, DSS lacks strategies for enforcing the minimum standards. DSS' only enforcement strategy, which is prescribed in state law, is to recommend a facility to an external child care committee⁷ for denial, revocation, or nonrenewal of its license. DSS has not promulgated any rules or regulations or developed any other formal enforcement practices or procedures for dealing with facilities that do not meet minimum licensing standards.

According to NARA, for a licensing agency to protect children in out-of-home care, it must have an effective enforcement process. Effective enforcement requires the consistent application of sound enforcement policies, including a wide range of intermediate sanctions, which DSS lacks. These sanctions include both positive enforcement strategies (e.g., frequent monitoring, technical assistance and consultation, and providing incentives for compliance) and negative enforcement strategies (e.g., warnings, conditional licenses, and civil fines). According to NARA, positive enforcement is the crux of enforcement as it encourages compliance before problems become serious enough to require negative enforcement strategies.

Because of a lack of enforcement strategies, DSS has limited approaches for dealing with noncompliant providers. Consequently, it is difficult for DSS to enforce the minimum standards that were established to protect the health, safety, and well-being of children in child day care centers and child residential facilities.

⁷ DSS refers Class A facilities to the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child-Placing Agencies. DSS refers Class B facilities to the Louisiana Committee on Private Child Care. As stated on page 6, these committees are responsible for development of the minimum licensing standards and enforcement of those standards.

Recommendation 8: DSS should consult with child care industry experts to consider developing an array of positive and negative enforcement strategies to help ensure provider compliance with minimum licensing standards.

Summary of Management's Response: DSS agrees with this recommendation and pursued such assistance prior to this audit. DSS is seeking consultation from other states as well as industry experts to develop an array of enforcement procedures for licensing. Unlike our sister states, DSS has no power to impose civil fines for rules violations and so is limited to decisions to revoke or not revoke a license, with the committees having the authority to finalize such decisions.

Matter for Legislative Consideration 1: The legislature may wish to consider expanding DSS' current enforcement authority (e.g., issuing civil fines) to help ensure provider compliance with minimum licensing standards.

DSS Should Develop Formal Procedures for Committee Referrals and Collect the Data Needed to Determine if the Committee Structure Is an Effective Enforcement Strategy.

DSS has not developed criteria for determining when to refer providers to the appropriate child care committee⁷ for possible denial, revocation, or nonrenewal of licensure. In addition, DSS lacks a formal record keeping system of the committee's actions. As a result, we could not determine if the committee structure is an effective enforcement strategy for holding providers accountable for complying with minimum standards.

Lack of Criteria. DSS has not developed policies and procedures regarding when to refer providers to committee for possible enforcement action nor has DSS promulgated any rules or regulations to address this issue. Instead, program managers use professional judgment to make this decision. As a result, we could not determine if DSS referred to committee all facilities that needed to be referred.

Lack of Formal Record Keeping. In addition, we could not evaluate the effectiveness of the child care committee process because DSS does not have a formal record keeping system to track committee actions. While we attempted, we could not determine with any certainty how often the committees met, whether or not they had a quorum when they met, or the number of providers DSS actually referred. Examples of problems we encountered in reviewing the committee information DSS provided include the following:

- Meeting minutes and agendas not kept electronically or in one central location
- Missing agenda, minutes, or both for some months
- No formal tracking/documentation of committee actions
- Incorrect/conflicting information

Based on the information that was available, it appears that DSS referred at least 334 Class A and 20 Class B providers to committee from January 1, 2004, through May 30, 2007. In addition, according to a DSS official, DSS revoked the licenses of 117 Class A and three Class B providers during that same time frame. Exhibit 6 breaks down this data according to provider type.

Exhibit 6
Provider Referrals and License Revocations
January 2004 Through May 2007

	Referred to Committee	License Revoked
Class A		
Child Day Care Centers	332	115
Child Residential Facilities	2	2
Total	334	117
Class B		
Child Day Care Centers	20	3
Child Residential Facilities	0	0
Total	20	3
Source: Prepared by legislative auditor's staff using information provided by DSS.		

Recommendation 9: DSS should develop formal criteria for referring providers to the appropriate child care committee for possible denial, revocation, or nonrenewal of licensure. This would help ensure that DSS refers noncompliant providers to the committees in an effective and consistent manner.

Summary of Management's Response: DSS partially agrees with this recommendation. Currently, DSS has internal criteria and guidelines that drive the committee referral process. DSS agrees there is a need to formalize the existing practice of referring providers to the committees to ensure consistency. Both child care and child residential licensing will work to formalize this process.

Legislative Auditor's Additional Comments: During the audit, we asked licensing staff for the criteria they use to refer providers to the child care committees. Licensing staff did not furnish us with any guidelines and stated they use professional judgment when making these decisions.

Recommendation 10: DSS should implement a formal record keeping and tracking system regarding the child care committee process. This would allow DSS to collect the data necessary to evaluate the effectiveness of the committee process as an enforcement strategy and make necessary changes.

Summary of Management's Response: DSS partially agrees with this recommendation. Indeed, there is little comprehensive cumulative data and criteria to determine if the committee structure is effective. We agree that better data is needed in this regard and have begun collecting such data. DSS respects the autonomy of this legislatively created body and is uncertain if the responsibility of evaluating the effectiveness of this structure rests with the

department. Since the summer of 2007, DSS has begun keeping a formal comprehensive record of recommendations and committee actions.

Licensing Information Is Not Easily Accessible to the Public or Providers.

Information to the Public. DSS has been unable to post deficiency statements for child day care and child residential facility providers on its website since March 2005 because of website and computer issues. DSS plans to resume posting deficiency statements when the computer problems are resolved.⁸ Also, DSS does not, nor does it plan to, post information regarding complaints filed against any child care providers.

Because provider performance information is not easily accessible, it is difficult for the public to obtain the information it needs to make informed child care placement decisions. In addition, DSS may be missing an opportunity to use its website to encourage providers to comply with the minimum licensing standards. Providers may be more likely to comply with minimum standards if they know that their deficiencies and/or complaints will be posted on the DSS website.

According to NARA, parental awareness of the licensing standards leads to greater compliance among providers. Effective licensing states post inspection and/or complaint reports on the Internet for consumer education. For example, the North Carolina Department of Health and Human Services website provides the public with information on a facility's license, the types of visits conducted over the past three years, the deficiencies cited, and any administrative actions taken against the facility. General complaint information is also provided, including the type of allegation (e.g., supervision and child/staff ratio) and whether a complaint was substantiated or unsubstantiated. The public can request by phone or click on a website link to receive more detailed information by mail.

Recommendation 11: DSS should work to resolve issues with its website and resume the posting of child day care center and child residential facility inspections and deficiencies.

Summary of Management's Response: DSS agrees with this recommendation and will have deficiencies posted by January 2008. Currently, the public can search the website to determine the dates of the facility inspections and whether the report included deficiencies.

Recommendation 12: DSS should consider posting complaint information for all providers in addition to inspection and deficiency information. This would ensure the public can easily obtain the information it needs to determine provider performance and make informed child care placement decisions.

⁸ The public can request deficiency statements but must pay 25 cents per page.

Summary of Management's Response: DSS partially agrees with this recommendation. The department fully agrees that validated complaints should be available to the public via the Internet. We cannot agree, at this point, to post unsubstantiated complaint information. If a complaint is not validated, it is questionable whether it is helpful to have in assessing the quality of a center.

Information to Providers. Currently, DSS does not provide formal training or assistance regarding licensing to new child day care or child residential facility providers. DSS refers new providers to the DSS website for the minimum standards and the license application. According to some providers, the information on DSS' website is scattered and difficult to find. They suggested the following ways in which DSS could assist both new and established providers:

- Update the website so it is easier to find licensing information.
- Update the website regularly to reflect policy and regulation changes.
- Conduct preliminary visits to new providers as this will assist them in setting up their centers correctly.
- Offer formal training for new providers on how to effectively operate a child care facility.
- Create a handbook that includes the minimum standards as well as the regulations for the Office of the State Fire Marshal and the Office of Public Health.

According to NARA, an effective licensing program should have a strong provider support system to encourage ongoing compliance and quality improvement. In addition, states that offer new provider training have fewer problems and greater retention rates among providers than states that do not offer this service. Up-front training that outlines the state's expectations discourages bad providers early on rather than after they have entered the industry.

North Carolina and Tennessee require new providers to attend a pre-licensing workshop to learn the licensing regulations before the initial licensing visit. To supplement this training, North Carolina developed a provider manual that outlines the licensing regulations, including interpretations and examples. Also, Tennessee partners with local business bureaus to provide orientation to new providers on the business aspect of operating a day care. Because providers cannot easily obtain licensing information or assistance regarding the licensing program, providers may not be receiving the information they need to attain and maintain compliance with the minimum standards.

Recommendation 13: DSS should meet with providers to determine the types of information they need to effectively operate their facilities. DSS should then update its website to present this information in a centralized and organized manner.

Summary of Management's Response: DSS agrees with this recommendation. It is important to note that additional human and fiscal resources will need to be invested in DSS to create the ideal provider support system described in the audit.

Recommendation 14: DSS should consider implementing a formal training and/or orientation program for new providers.

Summary of Management's Response: DSS agrees with this recommendation. The Child Care Licensing & Regulatory Section plans to implement formal training and/or orientation as soon as the section is fully staffed, trained, and the new Class A regulations are approved, most likely in the fall of 2008. The Bureau of Residential Licensing (BRL) plans to implement formal training for BRL, Office of Community Services and Office of Youth Development staff and providers by mid-2008.

Recommendation 15: DSS should consider developing a handbook for all providers that includes guidance on the licensing process and the interpretation and application of the minimum standards.

Summary of Management's Response: DSS agrees with this recommendation. Child residential staff, providers, and stakeholders have drafted a provider handbook slated for approval in late 2007. This project also will be assigned to the new policy program coordinator for child care.

Louisiana Law Provides Different Regulatory Requirements for Children in Child Day Care Centers and in Child Residential Facilities.

Louisiana law allows child day care center and child residential facility providers the choice of being licensed under one of two sets of standards: Class A or Class B. The Class A and Class B minimum standards provide varying levels of regulatory protection.

According to an official with NARA and NCCIC, all children deserve equal protection under the law. In addition, Louisiana is the only state in the nation with two sets of standards for child day care centers. Because of the variations between the two sets of standards for child day care centers and child residential facilities, Louisiana law does not ensure that children in these facilities receive the same level of regulatory protection. See Exhibit 7 on the following page for examples of variations between the Class A and Class B minimum standards for child day care centers and child residential facilities.

Exhibit 7
Examples of Variations Between the
Class A and Class B Child Day Care and Child Residential Minimum Standards

Minimum Standard	Class A	Class B
Child Day Care Centers		
Child to Staff Ratios	Infants under 12 months (5:1) One year olds (7:1) Two year olds (11:1) Three year olds (13:1) Four year olds (15:1) Five year olds (19:1) Six year olds and up (23:1)	Infants under 12 months (6:1) One year olds (8:1) Two year olds (12:1) Three year olds (14:1) Four year olds (16:1) Five year olds (20:1) Six year olds and up (25:1)
Corporal Punishment⁹	Not allowed.	Allowed with parental permission. ¹⁰
Employment of a Convicted Felon	Not allowed.	Allowed with written approval by the local district judge and district attorney.
Child Residential Facilities		
Child to Staff Ratios	Specific ratios <i>required</i> for staff.	Specific ratios <i>not required</i> .
Behavior Management	Provider <i>shall</i> have a written behavior management policy. Physical hitting or other painful physical contact is <i>not allowed</i> .	Provider <i>should</i> develop policies and procedures to govern discipline. Corporal punishment ¹¹ is <i>allowed</i> with written consent of parent or guardian. Humiliation or degrading punishment <i>should</i> be avoided.
Sleeping Accommodations	Provider <i>shall</i> ensure adequate bedroom space with specific square feet requirements.	Provider <i>should</i> ensure a safe and comfortable bedroom space.
Emergency and Safety Plan	Provider <i>shall</i> have a written plan for emergency and safety procedures with specific requirements.	Provider <i>should</i> have a plan for emergency and safety procedures.
Source: Prepared by legislative auditor's staff using information from the Class A and Class B Child Day Care Center and Child Residential Care Minimum Standards.		

Matter for Legislative Consideration 2: The legislature may wish to consider amending state law to consolidate the Class A and Class B minimum standards for child day care centers and child residential facilities into one set of standards for each.

⁹ According to an official with NARA, Louisiana is one of only three states to allow corporal punishment in child care facilities.

¹⁰ Defined in the Class B Child Day Care standards as "not more than three spanks of the open hand on the clothed buttocks of a child older than 24 months of age."

¹¹ According to the Class B Child Residential Care standards, this includes "slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort. All state laws must be followed when administering approved punishment."

APPENDIX A: SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed the applicable generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Audit Scope

We limited our performance audit of DSS to the Bureau of Licensing within the Office of the Secretary. We specifically focused on the licensing of child day care centers and child residential facilities. The audit covered licensing activities from January 1, 2006, through May 30, 2007. Our audit objective was to determine the following:

Is DSS protecting the health, safety, and well-being of children in child day care centers and child residential facilities through its licensing program?

Methodology

To accomplish our objective, we performed the following:

- Interviewed BOL staff and other key personnel at DSS (e.g., Office of Family Support, Office of Community Services, Child Care Assistance Program) and other relevant agencies (e.g., Office of Public Health, Office of the State Fire Marshal, Office of Youth Development) regarding the licensing program.
- Searched state law and administrative code to determine DSS' licensing authority and responsibilities.
- Addressed management internal controls by requesting policies and procedures for the BOL and interviewing staff regarding their management roles and the licensing process. **Note:** We found that there were no policies and procedures related to the BOL. Therefore, we concluded that internal controls were weak and developed our audit plan accordingly.
- Interviewed child care industry experts with the National Association for Regulatory Administration (NARA) and the National Child Care Information Center (NCCIC) regarding best practices in the regulation/licensing of child care facilities.
- Interviewed officials with the North Carolina Department of Health and Human Services, the Tennessee Department of Human Services, and the Oklahoma Department of Human Services regarding their licensing programs. These states are well-known throughout the child care industry as having strong licensing programs.

- Interviewed members of the Child Care Association of Louisiana for their input on DSS' licensing program.
- Reviewed relevant publications concerning the licensing of child care facilities, including
 - The 2005 Child Care Licensing Study by NARA and NCCIC
 - NACCRRRA's (National Association of Child Care Resource and Referral Agencies) Ranking of State Child Care Center Standards and Oversight
 - Report of Effective Legal Proceedings to Ensure Provider Compliance by NARA
- Attended annual licensing visits at two child day care and one child residential facility; attended follow-up visits at one child day care and four child residential facilities.
- Attended two meetings of the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies.
- Toured the Louisiana Methodist Children's Home in Ruston, Louisiana, which is the largest child residential facility in the state.
- Obtained the licensing data for child day care centers and child residential facilities based on their most recent initial or annual licensing visit; verified the reliability of this data and conducted file reviews of the following:
 - 30 randomly selected child day care centers and 30 randomly selected child residential facilities that recently received an initial licensing visit to obtain information on DSS' initial licensing activities, including the types of deficiencies cited
 - 30 randomly selected child day care centers and 30 randomly selected child residential facilities that recently received an annual licensing visit to obtain information on DSS' annual survey process, including types of deficiencies cited
- Examined agendas and minutes of the Class A and Class B advisory committees from January 2004 through May 2007 to obtain information regarding the committee process.
- Obtained the calendar year 2006 complaint data from DSS' BLAS database; verified the reliability of this data and determined the following:
 - The number and types of complaint allegations filed against child day care centers and child residential facilities
 - The length of time it took BOL to conduct complaint investigations

APPENDIX B: MANAGEMENT'S RESPONSE



**State of Louisiana
Department of Social Services**

OFFICE OF THE SECRETARY
627 N FOURTH STREET
P.O. BOX 3776
PHONE - (225) 342-0286 FAX (225) 342-8636
BATON ROUGE, LOUISIANA 70821

KATHLEEN BABINEAUX BLANCO
GOVERNOR

ANN SILVERBERG WILLIAMSON
SECRETARY

November 13, 2007

Mr. Steve Theriot, Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70821

Dear Mr. Theriot:

OVERVIEW

On behalf of the Department of Social Services (DSS), thank you and your staff members for the effort put forth in the performance audit of child care and child residential licensing.

Prior to the initiation of the performance audit, the Department identified policy, organizational, and procedural opportunities for improvement and invested significant resources to address these matters. Your audit confirmed the merits of these DSS initiatives highlighted below. We appreciate the recommendations and have work underway to implement the majority of them.

- DSS executive management **directed DSS Internal Audit staff to conduct a performance audit** in early 2005, and it was completed in August 2005. Their recommendations have been used in shaping the reforms implemented by the Department.
- In early 2005, DSS created a **new process to ensure that validated child abuse and neglect information was shared across all relevant entities for rapid decision-making, including those who license the facility, those who investigate/substantiate abuse or neglect, and those who pay for low-income children to receive child care.** This work includes the Office of Community Services (OCS), the Bureau of Residential Licensing (BRL), and the Office of Family Support (OFS), the funding source for Child Care Assistance Payment (CCAP). This institutionalized a process to further safeguard children in child care facilities. DSS is finalizing policy surrounding this process and is considering legislation to further protect children in child care facilities.
- Recognizing the importance of **staff development**, statewide staff training was held for two days in 2005 and subsequently, regular statewide staff meetings have been hosted to facilitate greater sharing of best-practice information, continuity of operations in the field and skill development. Furthermore, staff members have been supported in various forms of on the job training.
- **Transferring six (6) license types to the Department of Health and Hospitals in 2005**, allowed DSS licensing staff to focus their expertise predominantly on facilities that align with the DSS mission. Additionally, this shift resulted in an improved staff to facility ratio that was so grossly out of line with the national standard of best practice. Pursuant to Act 483 of the 2005 Regular Session, the ratio decreased from 1:193 to 1:112, while the nationally recommended standard is 1:75.

- In the same legislative session, DSS initially **sought greater statutory authority regarding licensing**. Recognizing its responsibility to license facilities, DSS raised the fact that it does not have the authority to revoke, deny or non-renew a license. Such authority rests with external legislatively created advisory committees, The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies and the Louisiana Committee on Private Child Care. In its final form, Act 223 did provide that if the child care committee fails or refuses to reach a decision on a DSS recommendation within thirty days after receipt of the recommendation, then the recommendation of the department shall become the official act of the committee.
- Efforts are under way to **update child residential licensing regulations and child care licensing regulations**.
 - o In 2005, DSS formed a committee comprised of BRL staff, OCS and Office of Youth Development (OYD) staff, child residential providers, and retired OCS staff and providers to **develop new child residential facility regulations and an accompanying handbook**. Both the draft regulations and handbook were submitted to the Louisiana Committee on Private Child Care for review and comment at the September 2007 committee meeting and will be voted on at the November 2007 meeting. After approval and public notice, three statewide public hearings and trainings will be held for the staff members of the BRL, OCS, and OYD, as well as providers. It is anticipated that the regulations will be effective by mid-2008.
 - o Statewide meetings were held throughout 2007 to receive comments on the new child care licensing standards, and revisions are being made based on these comments. In early 2008, the revised standards will be circulated and published and brought to the Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies for approval. The regional managers will conduct orientation session for potential providers. The same public input process will be followed once the new regulations are promulgated.
- In 2007, **a formal agreement was signed between the BRL, OCS, and OYD** to ensure timely inspection and correction of cited deficiencies at licensed child residential programs housing children in the state custody of OCS and OYD.
- Louisiana's **Quality Start Child Care Rating System (QRS), is being implemented in late 2007**. Louisiana is the 15th state to implement a QRS. This voluntary program for all licensed child care centers consists of levels of standards or "stars." To meet the state's standards for the first of a possible five star rating, 100% compliance with licensing regulations is required.
- In SFY 2007-2008, DSS **re-organized the licensing operations** creating a distinct unit for child care licensing and QRS and another unit to solely specialize in child residential and assisted-living licensure. DSS allocated eleven (11) new child care licensing positions and eighteen (18) positions for the QRS unit. This structure allows for a dedicated regulatory staff trained in child development and issues specific to child care.

STRATEGIC PRIORITIES

While there is significant value in our progress to date, DSS recognizes that there is critical work to be continued. To strategically guide the progress for DSS licensing operations, the following priorities have been identified and advanced:

- **Develop codified policies and procedures.** There are extensive child care and child residential regulations that direct the daily licensing work. In addition to developing guidance on the application of the regulations, operating procedures for providers and DSS licensing staff members will be developed into a formal policy manual. DSS has designated a full-time policy manager position to formalize the practices and procedures of child care licensing.

- Continue to **finalize, implement, and provide training for the new regulations and standards** for child residential and child care Class A facilities.
- **National credentialing of child care licensing staff** through the National Association for Regulatory Administration (NARA) will be completed in early 2008. Once completed, all child care licensing staff will be credentialed as regulators. This is a national best practice and Louisiana is one of the first states to pursue such a credential for child care staff.
- **Cooperative work with the Advisory Committees** to develop more clear criteria and protocol while documenting the process to allow for more informed decisions about the effectiveness of this approach going forward.
- In accordance with our commitment that DSS licensing must **institute quality practices and a high degree of reliable performance**, we remain aware of the need to “right-size” the staffing needed for successful licensing efforts. DSS is pragmatic and purposeful in filling staff positions.

POSITION ON AUDIT RECOMMENDATIONS

We have reviewed the draft recommendations and offer the following to be incorporated into the final report:

Recommendation 1: DSS should develop, implement, and regularly update policies and procedures for the licensing of child day care centers and child residential facilities.

We agree with this recommendation that DSS should develop, implement, and regularly update policies and procedures for the licensing of child day care centers and child residential facilities.

However, the characterization of staff having “little formal criteria” to guide their work is misleading in light of the fact that more than 200 codified regulations direct the survey process to protect children in child care and residential facilities.

We concur with the benefits and importance of formalized and updated policies and procedures. We are hiring a program coordinator with the sole responsibility of policy development for child care licensing. This individual will develop the formal policy manual and accompanying training materials both for licensing staff and providers. We also consulted a national clearinghouse and technical assistance center, the National Child Care Information Center (NCCIC), assisted us with identifying NARA as the appropriate contractor to assist in developing licensing policy. NARA will provide recommendations for training on policy use, and a process for ongoing development of policy. Similarly, policies for Residential licensing are also underway.

Recommendation 2: DSS should ensure that its policies and procedures address all aspects of the licensing program such as the annual survey process, managing complaints, and enforcement.

We agree that policies and procedures should address all aspects of the licensing program.

Recommendation 3: DSS should only issue licenses to those facilities that meet minimum standards.

We partially agree with the recommendation, most importantly believing that core¹ standards should be met to receive a license. Uniquely, DSS does not have the authority to deny issuance of licenses. Louisiana has statutorily granted that role to the external regulatory committees². DSS can secure a temporary restraining order in extreme cases, but DSS does not otherwise have the authority to revoke or non-renew a license. DSS

¹ Louisiana’s child care regulations are currently entitled “Minimum Standards” which may lead to confusion in understanding the recommendation.

² These committees include the Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies and the Louisiana Committee on Private Child Care

sought greater authority in this realm in the 2005 Regular Session. Per Act 332, DSS does have the authority to act if the committee does not do so over a period of 30 days. Consequently, while we concur with the concept of the audit recommendation, the remedy does not rest solely with DSS. We will need to work with the committee on this matter.

Missing from the audit's assessment of this area of performance is the fact that DSS upholds its legislative mandate to perform an on-site visit annually. Consequently, while the issuance of a license document may occur in facilities with some areas of non-compliance, DSS' site visit allows us to determine if substantial deficiencies exist. DSS quickly recommends non-renewal to the committee for substantial deficiencies.

Recommendation 4: DSS should define what it means for a facility to meet minimum standards and distribute these criteria to providers, licensing personnel, and the public.

We agree with the recommendation that clear definitions of core standards should be made available to providers, licensing personnel, and the public. In developing new regulations and policy, DSS will clearly define the core standards of licensing.

Recommendation 5: DSS should ensure that child day care centers receive documentation of criminal record check clearances on all staff prior to issuing their initial licenses.

We agree with this recommendation; and offer key points of clarification. Currently, state law requires an employer to perform a criminal background *check*. The child care/residential licensing regulations require that the background check finds no criminal convictions of a felony offense, an offense of a violent or sexual nature, or an offense involving a juvenile victim.

Because of the historical time delays in receiving clearances under the current system, DSS ensures that facilities have complied with the law and have documentation that a clearance has been requested. If the facility is awaiting results, they are cited with a deficiency. Documenting the deficiency serves as an indicator that subsequent verification of the clearance is required upon follow-up visits.

Louisiana State Police has verbally indicated to DSS that "real-time" clearances will be available by the end of November 2007. As soon as "real-time" compliance is available, DSS will notify the provider community. After notification, DSS will refer centers that lack completed and clear background checks to the committees for action.

Recommendation 6: DSS should consider prioritizing complaints based on risk level, with each risk level specifying a time for investigation. DSS should contact the best-practices states and associations cited in this report for assistance.

We partially agree with this recommendation. We agree our complaint process could be strengthened by codifying a timeframe for investigation based on the risk level associated with a complaint and monitoring performance in meeting the timeframes established. We also will contact the best-practices states for information on establishing risk levels to further strengthen our current practice which does prioritize complaints.

If a complaint involving imminent harm or risk is received, licensing staff respond to this complaint immediately. Within DSS, the Office of Community Services (OCS) investigates complaints alleging abuse or neglect in child care facilities, and a documented prioritization system is in place for the OCS process. We agree DSS needs the policy and data to validate this practice, and management commits to this effort.

Recommendation 7: DSS should formally document its complaint management process in its policies and procedures.

We agree with the need to formally document the complaint management process in policies and procedures.

Recommendation 8: DSS should consult with child care industry experts to consider developing an array of positive and negative enforcement strategies to help ensure provider compliance with minimum licensing standards.

We agree with this recommendation and pursued such assistance prior to this audit. DSS began providing on-site technical assistance in January 2006 for child care centers through the statewide network of resource and referral agencies. We are seeking consultation from other states as well as industry experts to develop an array of enforcement procedures for licensing. We plan to work with the industry to develop strategies to support compliance, including the development of corrective action plans and on-site meetings with the provider, licensing specialist and regional licensing manager.

DSS has little statutory authority to discipline licensed facilities other than to seek revocation of the license from the appropriate child care committee. Unlike our sister states, DSS has no power to impose civil fines for rules violations and so is limited to decisions to revoke or not revoke a license, with the committees having the authority to finalize such decisions.

Recommendation 9: DSS should develop formal criteria for referring providers to the appropriate child care committee for possible denial, revocation, or non-renewal of licensure. This would help ensure that DSS refers non-compliant providers to the committees in an effective and consistent manner.

We partially agree with this recommendation. Currently, we do have internal criteria and guidelines that drive the committee referral process. We agree there is a need to formalize the existing practice of referring providers to the committees to ensure consistency. Both child care and child residential licensing will work to formalize this process.

Recommendation 10: DSS should implement a formal record-keeping and tracking system regarding the child care committee process. This would allow DSS to collect the data necessary to evaluate the effectiveness of the committee process as an enforcement strategy and make necessary changes.

We partially agree with this recommendation. Indeed, there is little comprehensive cumulative data and criteria to determine if the committee structure is effective. We agree better data is needed in this regard and have begun collecting such data. DSS respects the autonomy of this legislatively created body and we are uncertain if the responsibility of evaluating the effectiveness of this structure rests with the Department.

Of course, the public meetings law puts the burden of keeping the minutes on the public body itself; thus, the external committees³ are responsible for keeping their own minutes and for making them available to public on demand. DSS keeps paper copies of referrals to the committees and committee decisions, as well as minutes and agendas. However, the referral and decision data has not historically been kept in one comprehensive electronic format. Since the Summer of 2007, DSS has begun keeping a formal comprehensive record of recommendations and committee actions.

Recommendation 11: DSS should work to resolve issues with its Web site and resume the posting of child day care center and child residential facility inspections and deficiencies.

We agree with this recommendation and will have deficiencies posted by January 2008.

Absent from the audit report, is that currently the public can search the DSS website to determine the dates of the facility inspections and whether the report included deficiencies. If the inspection yielded deficiencies, the public can request a paper copy of the report. By January 2008, the public will be able to immediately see the report with deficiencies.

³ These committees include the Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies and the Louisiana Committee on Private Child Care

Recommendation 12: DSS should consider posting complaint information for all providers in addition to the inspection and deficiency information. This would ensure the public can easily obtain the information it needs to determine provider performance and make informed child care placement decisions.

We partially agree with this recommendation due to the distinction between validated and unsubstantiated complaints. We fully agree that validated complaints should be available to the public via the Internet. While this is the most efficient mechanism, it is important to note that this information currently is available to the public on request as noted in our response to recommendation 11.

We cannot agree, at this point, to post unsubstantiated complaint information. If a complaint is not validated, it is questionable whether it is helpful information to have in assessing the quality of a center. A 2005 national study of Child Care Licensing⁴ indicated only two (2) states post all complaints on the Internet; instead, it is more common to post substantiated complaints, with six (6) states reporting posting all substantiated complaints. Additionally, some information concerning allegations of abuse and neglect are confidential under Louisiana R.S. 46:56. DSS will consider this recommendation in the future.

Recommendation 13: DSS should meet with providers to determine the types of information they need to effectively operate their facilities. DSS should then update its Web site to present this information in a centralized and organized manner.

We agree with this recommendation. It is important to note that additional human and fiscal resources will need to be invested in DSS to create the ideal provider support system described in the audit.

Recommendation 14: DSS should consider implementing a formal training and/or orientation program for new providers.

We agree with this recommendation. The Child Care Licensing & Regulatory Section care plans to implement formal training and/or orientation as soon as the Section is fully staffed, trained and the new Class A regulations are approved, most likely in the Fall of 2008. The Bureau of Residential Licensing plans to implement formal training for BRL, OCS, OYD staff and providers by mid-2008.

Recommendation 15: DSS should consider developing a handbook for all providers that includes guidance on the licensing process and the interpretation and application of the minimum standards.

We agree with this recommendation. Child residential staff, providers, and stakeholders have drafted a provider handbook slated for approval in late 2007. This project also will be assigned to the new policy program coordinator for child care.

CONCLUSION

Again, thank you and your staff members for your professionalism. We look forward to the benefits of improving our licensing practices, processes and procedures for the good of Louisiana citizens. If you have questions or require additional information, please let me know.

Sincerely,


Ann Silverberg Williamson

⁴ The 2005 Child Care Licensing Study: Final Report. Prepared by the National Association for Regulatory Administration and the National Child Care Information and Technical Assistance Center, December 2006.



Louisiana Legislative Auditor
Performance Audit Division

Checklist for Audit Recommendations

Instructions to Audited Agency: Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.


RECOMMENDATION(S)	AGREE	PARTIALLY AGREE	DISAGREE
Recommendation 1: DSS should develop, implement, and regularly update policies and procedures for the licensing of child day care centers and child residential facilities. (p. 9 of the report)	X		
Recommendation 2: DSS should ensure that its policies and procedures address all aspects of the licensing program such as the annual survey process, managing complaints, and enforcement. (p. 9 of the report)	X		
Recommendation 3: DSS should only issue licenses to those facilities that meet minimum standards. (p. 11 of the report)		X ¹	
Recommendation 4: DSS should define what it means for a facility to meet minimum standards and distribute these criteria to providers, licensing personnel, and the public. (p. 11 of the report)	X		
Recommendation 5: DSS should ensure that child day care centers receive documentation of criminal record check clearances on all staff prior to issuing them their initial licenses. This would help ensure that child day care centers do not employ, even temporarily, individuals with criminal convictions of a felony offense, an offense of a violent or sexual nature, or an offense involving a juvenile victim. (p. 12 of the report)	X		

¹ Full explanations for all recommendations with partial agreement by DSS can be found in the DSS management response letter.

Recommendation 6: DSS should consider prioritizing complaints based on risk level with each risk level specifying a timeframe for investigation. DSS could contact the best practices states and associations cited in this report for assistance. (p. 13 of the report)		X	
Recommendation 7: DSS should formally document its complaint management process in its policies and procedures. (p. 13 of the report)	X		
Recommendation 8: DSS should consult with child care industry experts to consider developing an array of positive and negative enforcement strategies to help ensure provider compliance with minimum licensing standards. (p. 14 of the report)	X		
Recommendation 9: DSS should develop formal criteria for referring providers to the appropriate child care committee for possible denial, revocation or non-renewal of licensure. This would help ensure that DSS refers non-compliant providers to the committees in an effective and consistent manner. (p. 16 of the report)		X	
Recommendation 10: DSS should implement a formal record keeping and tracking system regarding the child care committee process. This would allow DSS to collect the data necessary to evaluate the effectiveness of the committee process as an enforcement strategy and make necessary changes. (p. 16 of the report)		X	
Recommendation 11: DSS should work to resolve issues with its website and resume the posting of child day care center and child residential facility inspections and deficiencies. (p. 16 of the report)	X		
Recommendation 12: DSS should consider posting complaint information for all providers in addition to inspection and deficiency information. This would ensure the public can easily obtain the information it needs to determine provider performance and make informed child care placement decisions. (p. 17 of the report)		X	
Recommendation 13: DSS should meet with providers to determine the types of information they need to effectively operate their facilities. DSS should then update its website to present this information in a centralized and organized manner. (p. 17 of the report)	X		

Recommendation 14: DSS should consider implementing a formal training and/or orientation program for new providers. (p. 17 of the report)	X		
Recommendation 15: DSS should consider developing a handbook for all providers that includes guidance on the licensing process and the interpretation and application of the minimum standards. (p. 18 of the report)	X		

APPENDIX C: EXAMPLE OF LETTER DSS SENDS TO PROVIDERS WITH THE GENERIC LICENSE



State of Louisiana
Department of Social Services
BUREAU OF LICENSING
 627 North 4th Street, 1st Floor, Baton Rouge, LA 70802
P. O. BOX 3078, BATON ROUGE, LA 70821
 PHONE – (225) 342-9905 FAX – (225) 342-9690

KATHLEEN BABINEAUX BLANCO
GOVERNOR

ANN SILVERBERG WILLIAMSON
SECRETARY

January 25, 2007

RE: [REDACTED]
Anniversary Date: January

Dear [REDACTED]:

We received your application and fee and are issuing you a license for the operation of your Class A Child Day Care facility.

Capacity total: 39 (Building 1 = 39)
 Age Range: 6 Week(s) - 12 Year(s)
 Your license [REDACTED] will expire on January 31, 2008.

The issuing of this license does not in any way note your compliance or non-compliance with the regulations. The enclosed license should be conspicuously displayed in your place of business, is not transferable, and may be revoked for non-compliance with the Minimum Standards. Any citizen who inquires about your center's license should be notified that your citation of deficiencies, etc. is a different document than the enclosed. Both are available for public review.

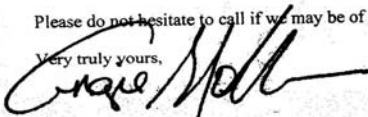
The staff from the appropriate agencies will visit your facility in order to verify compliance with regulations. Failure to comply with regulations could place those in your care in danger and/or place your license in jeopardy.

You are solely responsible for obtaining the required forms to apply for the renewal of your license. Applications for renewal of a license shall be made to the Bureau of Licensing at least 30 calendar days prior to the anniversary date of the current license and shall be on the required form. Application forms can be downloaded from the licensing website at <http://www.dss.state.la.us/departments/os/Licensing.html>. In addition, please check the website frequently as information imperative to your business may be updated at any time. Computer access is available at all public libraries.

If the application for renewal and fee are not received timely (30 days prior to your anniversary date) and the application is not completed thoroughly and accurately, your license will expire on the expiration date shown on the license. If you continue to operate the facility after the expiration date, you will be reported to the DSS General Counsel for operating an unlicensed facility.

You should make no structural changes nor additions to your facility without first notifying the State Fire Marshal, the Office of Public Health, and the Bureau of Licensing. This is in your interest as well as the interest of the population you serve.

Please do not hesitate to call if we may be of any assistance to you.

Very truly yours,

 Angie B. Rollins, Assistant Director

AR/aw

"AN EQUAL OPPORTUNITY EMPLOYER"

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APPENDIX D: Breakdown of Deficiencies by Type for Sample (30) of Child Day Care Centers¹²

Deficiency Type	Number of Times Deficiency Cited	Percentage of Times Cited
Class A Centers (24)		
Personnel Records	34	20.00%
Self Development and Training	30	17.65%
Health Service to Children	24	14.12%
General Requirements	22	12.94%
Safety Requirements	19	11.18%
Food Service and Nutrition	9	5.30%
Furnishings and Equipment	8	4.71%
Required Staff	4	2.35%
Required Child Staff Ratio	4	2.35%
Policies and Procedures Related to Children	3	1.76%
Children's Records	3	1.76%
General Transportation	3	1.76%
Field Trips	3	1.76%
Physical Environment	2	1.18%
Retention of Records	1	0.59%
Supervision	1	0.59%
Sub-total	170	100.00%
Class B Centers (6)		
Center Staff	7	53.85%
General Requirements	5	38.46%
Physical Plant and Equipment	1	7.69%
Sub-total:	13	100.00%
Total	183	n/a
Source: Prepared by legislative auditor's staff based on information obtained from child day care center file reviews.		

¹² We broke down the deficiencies according to the Class A and Class B centers in our sample as the minimum standards differ.

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APPENDIX E: Breakdown of Deficiencies by Type for Sample (30) of Child Residential Facilities¹³

Deficiency Type	Number of Times Deficiency Cited	Percentage of Time Deficiency Cited
Class A Facilities (29)		
Administration and Organization	96	26.59%
Quality of Life	86	23.82%
Human Resources	80	22.16%
Physical Environment	40	11.08%
Treatment Planning	22	6.09%
Direct Service Management	15	4.16%
Controlled Intensive Care Facility	14	3.88%
Emergency and Safety	8	2.22%
Sub-total:	361	100.00%
Class B Facilities (1)		
Human Resources	3	60.00%
Administration and Organization	1	20.00%
Quality of Life	1	20.00%
Sub-total:	5	100.00%
Total	366	n/a
Source: Prepared by legislative auditor's staff using information obtained from child residential facility file reviews.		

¹³ We broke down the deficiencies according to the Class A and Class B facilities in our sample as the minimum standards differ.

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APPENDIX F: Breakdown of the 385 Child Day Care Complaints by Type for Calendar Year 2006

Complaint Type	Definition*	Number of Complaints Containing Type ¹⁴	Percentage of Complaints Containing Type ¹⁵
Other	If allegation does not fit in any other category, it is listed as "other"	140	36.36%
Supervision	Child failed to be supervised/out of sight of staff	130	33.77%
Child/Staff Ratio	Ratios not met	85	22.08%
Abuse	Inappropriate discipline, unexplained marks on child	70	18.18%
Physical Environment	Something wrong with physical aspect of facility, equipment or center is over capacity allowed by physical space	67	17.40%
Records - Personnel/Children	Lacking documentation required in child's or staff's files/records	61	15.84%
Discipline	Discipline used is inappropriate and violation of regulations	56	14.55%
Neglect	Child neglected causing injury/harm to child	54	14.03%
Sanitation	Cleanliness, health related issues regarding center's environment	50	12.99%
Nutrition	Allegation involving food or menu	47	12.21%
Corporal Punishment	Child was spanked, whipped, physically disciplined with item	37	9.61%
Understaffed	Not enough staff, may be used in conjunction with child/staff ratio item depending on how complainant stated the allegation	35	9.09%
Transportation	Any allegation related to the transporting of children	22	5.71%
Discrimination	Allegation of discrimination	10	2.60%
Medications	Allegation related to medicine	10	2.60%
Training	Allegation related to staff training	5	1.30%
*Note: At the time of the audit, DSS did not have formal definitions of the complaint types. DSS established these definitions per our request.			
Source: Prepared by legislative auditor's staff using information from the BLAS database.			

¹⁴ One complaint may encompass many types. As a result, the total number of types is greater than the total number of CD complaints (i.e., 385).

¹⁵ We computed this value by dividing the number of complaints containing the type by the total number of complaints.

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APPENDIX G: Breakdown of the 12 Child Residential Facility Complaints by Type for Calendar Year 2006

Complaint Type	Definition*	Number of Complaints Containing Type ¹⁶	Percentage of Complaints Containing Type ¹⁷
Abuse	Inappropriate discipline, inappropriate restraint, marks on child, physical/emotional mistreatment of a child	5	41.67%
Supervision	Child failed to be adequately supervised	5	41.67%
Other	If allegation does not fit in any other category, it is listed as "other"	3	25.00%
Corporal Punishment	Child was spanked, whipped, physically disciplined with an item	2	16.67%
Discipline	Discipline used is inappropriate and/or violation of regulations	2	16.67%
Neglect	Child neglected causing injury/harm to child	2	16.67%
Understaffed	Not enough staff, may be used in conjunction with child/staff ratio item depending on how complainant stated the allegation	2	16.67%
Sanitation	Cleanliness, health related issues regarding center's environment	1	8.33%

***Note:** At the time of the audit, DSS did not have formal definitions of the complaint types. DSS established these definitions per our request.

Source: Prepared by legislative auditor's staff using information from the BLAS database.

¹⁶ One complaint may encompass many types. As a result, the total number of types is greater than the total number of CR complaints (i.e., 12).

¹⁷ We computed this value by dividing the number of complaints containing the type by the total number of complaints.

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